



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

December 17, 2023

BY ECF

The Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. John Chen*, 11 Cr. 1038 (PAE)

Dear Judge Engelmayer:

The Government respectfully submits this letter motion to request that the Court direct the United States Probation Office to deposit with the Clerk of Court the funds seized from defendant John Chen's residence on March 2, 2022, to be applied to the defendant's outstanding restitution obligation in this case. As the Court will recall, on October 2, 2023, the Government filed a letter teeing up this issue for the Court, the defendant, and the public. (Dkt. 163). The relevant facts are repeated below for the Court's convenience.

In connection with defendant John Chen's original 2012 conviction in this case, the Court ordered, among other penalties, that the defendant pay restitution to the victims of his offenses in the amount of \$196,652. The defendant has only paid approximately \$2,095 towards his criminal monetary obligations, and his current balance is therefore approximately \$194,857. (*See* Amended Violation Report at 5). Pursuant to 18 U.S.C. § 3613(c), a statutory lien was created in favor of the United States on all property and rights to property belonging to the defendant once judgment was entered. The United States' lien remains effective until the financial obligation has been paid in full or the obligation expires.

On March 2, 2022, the Probation Office conducted a search of the defendant's apartment and seized, among other things, \$44,800 in United States currency (the "Seized Funds"). During the search, Probation Officers also seized substantial evidence of the defendant's ongoing fraud and identity theft offenses, including identification documents in Chen's name. The Seized Funds plainly belong to the defendant and are therefore subject to the United States' lien described above.

In September 2023, an individual claiming to be the defendant's former girlfriend (the "Claimant") contacted the Probation Office, claimed ownership of the Seized Funds, and requested that the Probation Office return the Seized Funds to her. The Government, however, did not credit that claim of ownership and instead continues to believe that the funds belong to the defendant, not his girlfriend. Accordingly, at the Government's suggestion, the Probation Office informed

the Claimant that the United States was claiming the funds as the defendant's property and was going to apply to this Court seeking to apply the funds to the defendant's restitution obligation.


The undersigned has been informed in writing by Supervising Probation Officer David Mulcahy that, on or about October 25, 2023, he forwarded the Government's October 2, 2023 letter to counsel for the Claimant (Lucy Lu, Esq., of the Kasen Law Firm PLLC in Flushing, New York) and also spoke to counsel by phone. Accordingly, the Claimant has received actual notice of the need to write to this Court within 30 days if she wished to formally contest the Government's seizure of the funds.

Substantially more than 30 days have elapsed from when the Claimant received actual notice, through her counsel, of the need to appear before this Court if she wished to formally contest the Government's seizure of the Seized Funds. She has not appeared. Accordingly, the Government now submits that it is appropriate for the Seized Funds to be recognized as belonging to the defendant and, pursuant to 18 U.S.C. § 3613(c), to be turned over to the Clerk of Court to be applied towards the defendant's restitution obligation. Because the funds are in the possession of the Probation Office, which is an arm of the Court, the Government cannot itself direct the Probation Office to turn over the funds. The Government therefore respectfully requests that this Court so-order this letter, thereby directing the Probation Office to do so.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

by:



Jacob R. Fiddelman
Assistant United States Attorney
(212) 637-1024

cc: Joseph Lo Piccolo, Esq. (counsel to John Chen)
Supervisory Probation Officer David Mulcahy (by email)

GRANTED. The Clerk of Court is requested to terminate the motion at Dkt. No.167.

12/18/2023

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge